

## Chapter 86 SUBDIVISIONS\*

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**\*Cross references:** Buildings and building regulations, ch. 14; floods, ch. 38; mobile homes, ch. 54; planning, ch. 66; streets, sidewalks and other public places, ch. 82; utilities, ch. 98; vegetation, ch. 102; zoning, ch. 106.

**State law references:** Platting lands generally, Wis. Stats. § 236.01 et seq.

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## ARTICLE V. PARK AND PUBLIC LAND DEDICATIONS

### Sec. 86-221. General requirements.

- (a) *Dedication requirement.* In order that adequate open spaces and sites for public uses may be properly located and reserved and in order that the cost of providing public areas such as, but not limited to, parks, recreation areas and public schools may be equitably apportioned on the basis of additional need created by the subdivision development, each subdivider shall be required to reserve land, dedicate land or fees in lieu of land for park

or other public uses. Each subdivider of land in the city shall, at the discretion and direction of the common council, upon the recommendation of the plan commission, either dedicate open space lands designated on the city comprehensive plan, land use plan, official map or plan component, or reserve such open space lands and pay a public site fee, or, where no open space lands are directly involved, pay a public site fee. The plan commission shall, at the time of reviewing the preliminary plat or certified survey map, recommend to the common council the land dedication option, fees in lieu of land option, or reservation of additional land option and record such selection in the minutes of the meeting at which the preliminary plat is presented for approval.

- (b) *General design.* In the design of a subdivision, land division, certified survey map, planned unit development or condominium project, provision shall be made for suitable sites of adequate area for schools, parks, playgrounds, open spaces, drainageways and other public purposes. Such sites are to be shown on the preliminary plat and final plat, and shall comply with the city comprehensive plan, land use plan or component of such plan. Consideration shall be given to the preservation of scenic and historic sites, stands of trees, marshes, lakes, ponds, streams, watercourses, watersheds, ravines and woodlands, prairie and wetlands, and plant and animal communities, as recommended by the city engineer and plan commission, park and recreation commission, and approved by the common council.

(Ord. No. 98-12, § 1(86-1-80), 5-8-1998)

## **Sec. 86-222. Land dedication.**

- (a) *Dedication of site option.* Whenever a proposed playground, park or other public open space land designated on the city's comprehensive plan, open space and recreation plan, neighborhood unit development plan or other comprehensive plan component is encompassed, all or in part, within a tract of land to be subdivided, the public lands shall be made a part of the plat and shall be dedicated to the public by the subdivider at the rate of one acre for each 30 proposed or potential dwelling units. The term "dwelling unit" shall include each individual unit (one unit) of a condominium development.
- (b) *Shoreland.*
- (1) *Stream shore plats.* All subdivisions abutting on navigable streams shall provide public access at least 60 feet wide providing access to the low watermark so that there will be public access, which is connected to existing public roads, at not more than one-half-mile intervals, as measured along the lake or stream shore, except where greater intervals and wider access is agreed upon by the state department of natural resources and the state department of development, and excluding shore areas where public parks or open space streets or roads on either side of a stream are provided. No public access established under this chapter may be vacated except by circuit court action. This subsection does not require the city to improve land provided for public access.
- (2) *Stream shore plats.* The lands lying between the meander line, established in accordance with Wis. Stats. § 236.20(2)(g) and the water's edge, and any otherwise unplattable lands which lie between a proposed subdivision and the water's edge, shall be included as part of lots, outlots or public dedications in any plat abutting a lake or stream. This subsection applies not only to lands proposed to be subdivided but also to all lands under option to the subdivider or in which the

subdivider holds any interest and which are contiguous to the lands proposed to be subdivided and which abut a lake or stream.

- (c) *Unknown number of dwelling units.* Where the plat, certified survey or condominium does not specify the number of dwelling units to be constructed, the land dedication shall be based upon the maximum number of units permitted by the city zoning chapter and this chapter.
- (d) *Deeded to the city.* For lands deeded to the city see Wis. Stats. ch. 236, dedications to public.
- (e) *Access to dedicated land.* All dedicated land shall have frontage on a public street and shall have unrestricted public access.
- (f) *Utility extensions.* The subdivider shall install or provide for installation of water and sanitary sewer lines to the property line of all dedicated lands where such services are to be provided to the adjacent properties.

(Ord. No. 98-12, § I(86-1-81), 5-8-1998)

### **Sec. 86-223. Reservation of additional land.**

When public parks and sites for other public areas, as shown on the master plan, open space and recreation plan or land use plan component, lie within the proposed area for development and are greater in area than required by section 86-222, the owner shall reserve for acquisition by the city, through agreement, purchase or condemnation, the remaining greater public area for a period of three years of final plat approval, unless extended by mutual agreement.

(Ord. No. 98-12, § I(86-1-82), 5-8-1998)

### **Sec. 86-224. Development of park area.**

- (a) When parklands are dedicated, the subdivider is required to:
  - (1) Properly grade and contour for proper drainage;
  - (2) Provide surface contour suitable for anticipated use of area; and
  - (3) Cover areas to be seeded with a minimum of four inches of quality topsoil, seed as specified by the city engineer, fertilized with 16-6-6 at a rate of seven pounds per 1,000 square feet, and mulched. The topsoil furnished for the park site shall consist of the natural loam, sandy loam, silt loam, silty clay loam or clay loam humus-bearing soils adapted to the sustenance of plant life. Such topsoil shall be neither excessively acid nor excessively alkaline.
- (b) The common council may require certification of compliance by the city engineer. The cost of such report shall be paid by the subdivider.
- (c) Grading and seeding of parklands is to be completed as soon as ten percent of the planned lots in the subdivision are sold, as determined by the common council.
- (d) If the subdivider fails to satisfy the requirements of this section, the common council may contract such completion and bill such costs to the subdivider, following a public hearing and written notice of noncompliance to the subdivider. Failure to pay such costs may

result in the immediate withholding of all building permits until such costs are paid.

(Ord. No. 98-12, § 1(86-1-83), 5-8-1998)

**Sec. 86-225. Fees in lieu of land.**

- (a) The plan commission, in its sole discretion, shall determine whether to require dedication of land or payment of money from any subdivider after consultation with the park and recreation commission. If the plan commission has determined to require payment of money in lieu of dedication of land, such money shall be paid to the city clerk/treasurer at the first application for approval of a final plat of such subdivision in the amount of \$300.00 for each dwelling unit within the plat allowed by the zoning chapter. The maximum fee for newly platted lots in multifamily districts shall be \$200.00 for each individual dwelling unit.
- (b) If the value of undeveloped land is disputed, such value shall be determined by the assessor on the basis of full and fair market value of the land as unimproved and unsubdivided land. If the owner is not satisfied with such appraisal, he may appeal such determination, in which case an appraisal board consisting of one appraiser selected by the city at its own expense, one selected by the property owner at his own expense, and a third selected by the two other appraisers, at the city's and property owner's expense, shall determine the value.
- (c) Such fee shall be placed in a nonlapsing fund to be used for park and recreational development.
- (d) No payment shall be required for a lot, created by the division of land under this chapter, on which a residential structure already exists, or which is a residual parcel in excess of ten acres and not intended for immediate sale or other conveyance.
- (e) Where a lot or parcel for which payment has once been made is further divided, payment shall be required only for the additional lots or parcels created.
- (f) The required payment shall be made before the certification or approval may be affixed to the final plat.

(Ord. No. 98-12, § 1(86-1-84), 5-8-1998)

Secs. 86-226--86-245. Reserved.